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West Des Moines City Council Proceedings  
Monday, April 29, 2013

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, April 29, 2013 at 5:34 PM. Council members present were: T. Ohmart, J. Sandager, and K. Trevillyan. Council members J. Mickelson and R. Trimble participated by telephone.

Mayor Gaer welcomed the students from Fairmeadows Elementary School participating in Student Government Day. The following students were introduced and the role they were playing: Brock Veatch, Mayor, Rylie Tu, Council member First Ward, Ingrid Comparan, Council member Second Ward, Trisha Bedwell, Council member Third Ward, Sarah Ellis, Council member at Large, Sarah Kanehl, Council member at Large, Jacob Gates, City Manager, Payton Colbert, City Attorney, Evan Pflughaupt, Deputy City Manager/City Clerk, and Tyler Majeres, Deputy City Clerk.

On Item 1. Agenda. It was moved by Sandager, second by Trevillyan to approve the agenda as presented.

Vote 13-144: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Mayor Gaer read Proclamation - National Police Week.

Police Chief Shaun LaDue introduced new Police Officers Mark Butcher, Richard Cuevas, Tony Danti, and Brody Moore, and the four officers were then sworn in by Mayor Gaer.

City Manager Greg Sparks reported the new Youth Advisory Commission initially met on April 16th and will meet again on May 6th with students from each of the participating schools, as they plan to establish goals and objectives for the Commission. He reported an informational meeting was held on April 17th by Polk County regarding the proposed senior center on 6<sup>th</sup> Street and the groundbreaking for the Wells Fargo Home Mortgage expansion took place on April 19th. He also reported he and other staff members attended the Historic Valley Junction Foundation's annual meeting on April 24th.

On Item 4. Consent Agenda.

Council members pulled Item 4(e)2 for discussion. It was moved by Sandager, second by Trevillyan to approve the consent agenda as amended.

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- a. Approval of Minutes of April 15, 2013 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. Casey's Marketing Company d/b/a Casey's General Store #3098, 125 Grand Avenue - Class LE Liquor License with Carryout Beer, Native Wine, and Sunday Sales - New
  - 2. Migliero Real Estate d/b/a G. Mig's 5th Street Pub, 128 5th Street - Class LC Liquor License with Sunday Sales - Renewal
  - 3. Hy-Vee, Inc. d/b/a Hy-Vee Drugstore #2, 1010 60th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
  - 4. MM, LLC d/b/a Ladder #13, 1316 Grand Avenue - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
- d. Approval of Cigarette Permits
- e. Approval of Extended Sound Permit:
  - 1. Cabaret West Glen Outdoor Patio Concerts
- f. Name Change - "WDM Human Services Housing Solutions Program"
- g. Ordering Construction:
  - 1. 2013 PCC Reconstruction Program
  - 2. 2013 Sump Pump Sewer Program
  - 3. 2012 Channel Repair Program
- h. Approval of Processes - Economic Development Grants
- i. Approval and Acceptance of Storm Water Management Maintenance Facility Agreement - Wells Fargo Home Mortgage Campus
- j. Determining the Necessity and Establishing Dates of a Consultation Meeting and a Public Hearing on Proposed Urban Renewal Plan - 4125 Westown Parkway Urban Renewal Area
- k. Approval of Detour Agreement - I-35 Reconstruction Project
- l. Approval of Proclamations:
  - 1. National Police Week - May 12-18, 2013
  - 2. Bike Month - May 2013

Vote 13-145: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes  
Motion carried.

Council member Mickelson's participation in the meeting by telephone ended at 6:02 p.m.

On Item 4(e)2 Approval of Extended Sound Permit - Valley Junction Neighborhood Reunion and Street Festival, Railroad Park

Council member Trevillyan expressed his preference to delay action on this item to allow time to address a number of unanswered questions regarding the proposed special event.

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It was moved by Trevillyan, second by Sandager to defer Item (e)2 Approval of Extended Sound Permit - Valley Junction Neighborhood Reunion and Street Festival, Railroad Park, until the unresolved issues have been addressed and the matter may then be brought back for Council consideration.

Mayor Gaer suggested the matter should be reviewed by the Valley Junction Events Subcommittee.

Council member Trevillyan stated a special meeting of the Valley Junction Events Subcommittee can be convened for this matter.

Vote 13-146: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 5(a) Heritage Hills, northeast corner of 88th Street and future E. P. True Parkway - Amend the Zoning from Neighborhood Commercial (NC) to Residential High Density (RH-18), initiated by F & S Associates

It was moved by Trevillyan, second by Sandager to consider the second reading of the ordinance.

Vote 13-147: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the second reading of the ordinance.

Vote 13-148: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

It was moved by Trevillyan, second by Ohmart to waive the third reading and adopt the ordinance in final form.

Vote 13-149: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 5(b) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 2 (Administration and Enforcement), Section 3 (Violations; Enforcement Procedures) - Issuance of Parking Tickets, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Sandager to consider the second reading of the ordinance.

Vote 13-150: Ohmart, Sandager, Trevillyan, Trimble...4 yes

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Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the second reading of the ordinance.

Vote 13-151: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

It was moved by Sandager, second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 13-152: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

On Item 5(c) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 6 (Parking Regulations), Section 15 (Parking Violations; Failure to Pay) and Section 16 (Penalty) - Resolution of Parking Tickets, initiated by the City of West Des Moines

It was moved by Ohmart, second by Sandager to consider the second reading of the ordinance.

Vote 13-153: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the second reading of the ordinance.

Vote 13-154: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

It was moved by Trevillyan, second by Sandager to waive the third reading and adopt the ordinance in final form.

Vote 13-155: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Jordan Creek Town Center, 101 Jordan Creek Parkway - Amend the Planned Unit Development to Modify Setback and Buffer Standards for 1 Parcel in the Development, initiated by GGP Jordan Creek, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 12, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 4-0, with one member

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abstaining and two members absent, the Plan and Zoning Commission recommended City Council approval of the proposed amendment.

Mayor Gaer asked if there were any public comments.

Randy Tennison, General Manager of the Jordan Creek Town Center, 101 Jordan Creek Parkway, stated there is an opportunity to bring a hotel to one of the Jordan Creek Town Center outparcels but it would require a PUD amendment to adjust the setback of that outparcel. He noted the hotel would bring jobs and additional tax revenue to West Des Moines. He stated staff supports the amendment with conditions, including a condition that a connection road is constructed on the west side of the Jordan Creek Town Center. He stated owners of the Jordan Creek Town Center do not support that particular condition because any change to the road system would require additional approvals from several of the Jordan Creek Town Center's tenants, including Younkers and Dillards, and he feels there is a need to step back and review how the connection would impact the property.

Tim Hogan, Hogan Law Office, 3101 Ingersoll Avenue, Des Moines, stated he is representing Richard Hurd, who owns the adjoining property that would share the connection drive into the Jordan Creek Town Center. He stated the plan for that specific connection drive has been in place for a long time and has received support from City staff, the Plan and Zoning Commission, and the Development and Planning Council Subcommittee. He noted the connection drive would benefit those who visit the Jordan Creek Town Center because it would allow vehicles to move about the properties without having to enter back onto the street system. He speculated the suggestion that the tenants need to approve the connection drive is a red herring because the connection drive would likely be a lesser concern for the tenants than the impact of the proposed hotel. He noted Richard Hurd plans to pay for the connection drive.

Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

Chris Shires, Development Planning Manager, explained the City's policy is generally to interconnect commercial properties when and where it is practical, and he noted staff recommends requiring the connection drive as a condition of approval because it is a logical connection and would provide a mutual benefit to all properties in that area.

Council member Sandager stated the proposed amendment would reduce the setback of the outparcel, for the proposed hotel, from 100 feet to 25 feet. Due to that significant change, the Development and Planning Subcommittee felt this was the appropriate time to require the connection drive, which has been a longstanding issue. He expressed support for the PUD amendment with the connection drive as a condition of approval because the hotel would develop an additional 1.5 acres of the Jordan Creek Town Center and the connection drive would help improve overall traffic circulation.

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Council member Trevillyan inquired about the reason why General Growth Properties does not want the proposed connection drive, since a connection drive was installed, after the Town Center was built, near Costco.

Mr. Tennison responded the connection drive near Costco was included in the original PUD, so there were no issues with that. He stated General Growth Properties never intended to have a connection drive in the location where it is now being proposed. He noted the 25 foot setback being requested is consistent with development on the east side of South 68<sup>th</sup> Street, and since General Growth believes the connection drive is not related to their current request, it should not be required at this time.

Council member Trevillyan stated he is in favor of the hotel and supports the PUD amendment to accommodate it. He stated it makes sense to require the connection drive, and he speculated it would benefit the Jordan Creek Town Center property equally, if not more so, as Richard Hurd's property. He requested additional information on the agreements between the Jordan Creek Town Center and its tenants.

Mr. Tennison stated some of the large stores, including Younkers and Dillards, own the pads that they sit on, and those stores each have a reciprocal easement agreement with the Jordan Creek Town Center. Those reciprocal easement agreements have a stipulation that requires the stores' approval for any major changes to the property's thoroughfares or ring roads, and the stores have not yet been informed about the proposed connection drive. He expressed concerns that the connection drive would benefit Richard Hurd's property, which could someday have a business that is a competitor to a business, or multiple businesses, in the Jordan Creek Town Center, thereby having a potential detrimental impact on the Jordan Creek Town Center property or businesses.

Mayor Gaer stated the City does not want to get into a position where it is picking winners and losers; instead it wants to create a level playing field and follow the existing policy to create connections between businesses where it is logical. He expressed a desire to get this matter resolved now rather than push it further down the road.

Chris Pine, Senior Vice President of Development for General Growth Properties, stated another concern about the connection drive is that it could result in the Richard Hurd property developing a store with its back facing the Jordan Creek Town Center. He stated General Growth Properties would not choose to develop it that way, and he speculated the City would not want it to be developed that way either. He explained that their reciprocal easement agreements pose a significant obstacle for the Jordan Creek Town Center, because even if a kiosk within the mall is moved, they have to get permission from those stores, and the permission typically requires reciprocation in the form of some sort of a trade. He expressed his desire to have the discussion on the connection drive independently from discussion on the proposed hotel project, and he indicated that if the connection drive is constructed, General Growth Properties should be allowed to give input on how Richard Hurd's property is developed.

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Mayor Gaer reiterated that the proposed connection drive is consistent with the City's policy and that this is the right time to discuss it because the matter has been proposed and discussed on many previous occasions and where finalization was never reached. He stated General Growth Properties will have the opportunity to comment on the future site plan(s) submitted for the Hurd property during the public hearing process, but the City will not allow one developer to dictate development on another developer's project.

Mr. Pine indicated he feels the City is allowing another developer to develop their project.

The Mayor and Council expressed that is not the case.

Council member Ohmart reiterated that connection drives between commercial developments are the standard across the City, and he stated the developer that gets there first should not have authority over any developments that come later. He reiterated the Mayor's comment that the City wants to create an environment where everyone can be successful.

Mr. Pine stated he would like to withdraw the requested amendment to the PUD.

Mayor Gaer stated the request cannot be withdrawn at this stage, because the City's policy is, once a public hearing has been held, the Council has to vote on the matter. He stated if the Council's ultimate decision concerns General Growth and causes them to not build the hotel, then that is their business decision.

Mr. Pine acknowledged he understands the City's position.

Mayor Gaer noted Richard Hurd put in a connection drive of which 90 percent of the traffic passing through it goes to the Jordan Creek Town Center. He reiterated such connection drives are required all over the city, and the City does not want to pick winners and losers.

Richard Hurd, 2000 Fuller Road, acknowledged he did construct a connection drive that carries more traffic to General Growth Properties than his own, because it was a requirement of the City. He stated this is a very similar situation, and he expressed that his property should be given the same rights as the property of General Growth Properties. He noted General Growth Properties will need permission from their large store tenants to build the hotel anyway, so it shouldn't be any more trouble for them to ask request permission for the connection drive as well. He requested the Council approve the request as it was made with the conditions of approval recommended by staff.

It was moved by Trevillyan, second by Sandager to consider the first reading of the ordinance.

Vote 13-156: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

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The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Ohmart to approve the first reading of the ordinance.

Vote 13-157: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider The Woods at Sugar Creek, south of Mills Civic Parkway, north of Stagecoach Drive, and west of South 95th Street - Rezone the Property to Single Family Residential (R-1), initiated by Triple T, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 12, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of both the proposed Comprehensive Plan Amendment and Rezoning.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Comprehensive Plan Land Use Map and Ultimate Street Map Amendment.

Vote 13-158: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

It was moved by Ohmart, second by Trevillyan to consider the first reading of the ordinance.

Vote 13-159: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the first reading of the ordinance.

Vote 13-160: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider 2013 Sanitary Sewer Lining Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 19, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.



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Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to SAK Construction, LLC.

Vote 13-161: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Valley Junction Alleys, Phase II, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 19, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Pohlmeier Construction.

Vote 13-162: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider 2013 Intake Repair Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 19, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to MPS Engineers.

Vote 13-163: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

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On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$870,000 (Current Refunding) General Obligation Bonds, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on April 19, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Instituting Proceedings to take Additional Action.

Vote 13-164: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(a) Galleria at Jordan Creek Plat 15, 6630 Mills Civic Parkway, Building 6000 – Subdivide Property into 1 Lot for Commercial Development, initiated by S-J-Jordan, LC

It was moved by Trevillyan, second by Ohmart to adopt Resolution - Approval of Final Plat and Release for Recordation, subject to the applicant complying with all applicable City Code requirements.

Vote 13-165: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(b) Enclave of Ashworth Plat 2, southeast corner of Ashworth Road and 67th Street - Subdivide Property into 22 Lots for Residential Development, 3 Public Street Lots, and 1 Outlot for Stormwater Detention, initiated by Mid-America Investment Company

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The City Council allowing the design of Lot B, Aspen Drive/66th Street, to deviate from the West Des Moines Design Standards for horizontal curves for Enclave of Ashworth Plat 2 only.
2. The applicant providing final drawings, addressing staff comments, of the preliminary plat prior to the construction of any improvements on the site and prior to the final plat proceeding to the City Council for approval.
3. The applicant acknowledging that the associated final plat must be approved and released for recordation by the City and recorded with the County prior to the issuance of any

- building permits, including footing and foundation permits for any lot within the plat;
4. The applicant acknowledging that prior to the final plat proceeding to the City Council for approval, the applicant will provide a street light design, by a City-approved engineer and that the street light costs will be paid to MidAmerican Energy Company.
  5. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, applicant will need to complete the following public improvements, or petition to the City Council to allow surety to be provided in lieu of completion and acceptance of the following public improvements:
    - a. Public storm and sanitary sewer
    - b. Public sidewalks
    - c. Paving
  6. The applicant obtaining approval of Public Improvement Construction Plans for all public improvements prior to their construction. Furthermore, the applicant acknowledging that all public improvements must be completed and approved by the City prior to issuance of any occupancy permits, including temporary occupancy permits, for any dwelling within the plat; and,
  7. The applicant submitting as-built information for the detention facilities, which provide storm water management for any property within this plat's area, prior to issuance of a final occupancy permits for any building on any parcel created with this plat.
  8. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, that additional right-of-way along Ashworth Road will be dedicated to the City at no cost by fee title sufficient to meet Comprehensive Plan right-of-way requirements of 60 feet from the centerline of Ashworth Road.
  9. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, that a Parkland Dedication Agreement, which meets the parkland dedication requirements for this single family development, will be required to be executed.
  10. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, that additional right-of-way, easements, and construction of the reconfigured end of 67th Street, will be provided to the City.
  11. The applicant acknowledging that prior to the final plat proceeding to City Council for approval, that all easements for public infrastructure, sewer, access, or other required easements will be provided to the City.
  12. The applicant acknowledging that an executed maintenance easement agreement and maintenance covenant will need to be executed prior the final plat proceeding to the City

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Council for approval. As part of the maintenance covenant the applicant will be responsible to provide a letter certifying the detention facility is in conformance with the approved storm water management plan and as-builts of the detention facility. Letter and as-builts will need to signed/sealed in accordance with Chapter 6, 193C-6.1(542B) of the Iowa Code.

Vote 13-166: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(c) Watermark at Jordan Creek, northeast corner of Stagecoach Drive and future South 68th Street - Construction of an Apartment Complex, initiated by Watermark Residential, LC

Doug Mandernach, Civil Design Advantage, 3405 SE Crossroads Drive, Grimes, reported the proposed project is a 176 unit apartment complex made up of four-story buildings with a clubhouse and a pool area. The clubhouse and pool location had originally been proposed for the north side of the site but, at the suggestion of residents, was relocated to the south side so there would be one less four-story building adjacent to the Pheasant Ridge development to the south. He reported there will be a 120 foot right-of-way for future South 68<sup>th</sup> Street and a 120 foot buffer with a 10 to 12 foot high berm separating the Watermark site from the Pheasant Ridge homes. He noted the closest apartment building will be 295 feet from the property line of the closest Pheasant Ridge property.

Sally Brodbeck, 1025 South Willow Circle, expressed concerns that the four-story apartment buildings could negatively impact her property's privacy, security, and value. She stated the berm separating her property from the Watermark site was supposed to be 100 feet wide and 15 feet high, but she believes it has diminished from that size in many places. She expressed that she believes the four-story buildings would be inconsistent with the adjacent Pheasant Ridge development to the south, and she is concerned the new buildings will be extremely visible from her property. She requested the Council do what they can to limit the Watermark site's impact on her property, including implementing requirements that the developers raise the berm, plant more vegetation at the top of the berm, lower the grading level of the ground the apartment buildings will sit on, ensure lighting on the site points downward instead of outward, and install a fence at the top of the berm to keep the apartment dwellers off and away from Pheasant Ridge properties. She noted she would be willing to maintain the vegetation on the berm that would be south of the fence.

Ken Brodbeck, 1025 South Willow Circle, presented photographs of his property, the Watermark site, and the berm that runs in between them. He noted the grade level of the proposed Watermark site has increased in recent years because dirt had been brought onto the site, and that has reduced the berm's value as a buffer. He also stated a number of the trees on the berm are dead or dying. He expressed his preference would be that the southeast apartment building be limited to three stories. He noted there is no other place in West Des Moines where a single family home is adjacent to a four-story apartment building. He asked the Council to consider the

following requests:

1. Replace trees according to original plan
2. Raise berm through waterway 15 feet
3. Feather grade east and west of waterway
4. Replant with 6' trees on new raised berm
5. Maintain trees for 3 years

Lara VanDis, 6355 Oakwood Drive, spoke in opposition to the four-story apartment buildings being included in the proposed Watermark site plan, citing concerns about the potential negative impact on the adjacent Pheasant Ridge properties relating to visibility and property values.

Jody Smith, Deputy City Manager/City Clerk, stated an email had been received today from Luke Vogel expressing his opinion on the matter, and that email will be included in this meeting's record.

Raymond Hague, 1350 South Sky Ridge Drive, requested all the Pheasant Ridge residents that are present and support extra measures being taken to address concerns regarding the proposed site plan identify themselves by standing.

Mayor Gaer suggested that individuals in attendance who were in agreement with "extra measures" indicate so by signing a sheet placed by the door; individuals who signed that sheet were: Ken Brodbeck, 1025 South Willow Circle; Sally Brodbeck, 1025 South Willow Circle; Lara VanDis, 6355 Oakwood Drive; Sally Garfield, 1270 South Deer Road; Rebecca Nunn-Ryan, 1030 South Willow Circle; Kevin M. Ryan, 1030 South Willow Circle; Todd Weber, 1035 South Deer Road; Alyce Ward, 1485 South Willow Drive; Frank Ward, 1485 South Willow Drive; Jeremy Rhyhan, 1495 South Deer Road; Sheri Steger, 6360 Oakwood Drive; Bruce Hansen, 6251 Pheasant Run Drive; Dick Rasmussen, 1630 South Lakeview Drive; and Sue Rasmussen, 1630 South Lakeview Drive.

Mr. Hague then spoke in opposition to the four-story apartment buildings being included in the proposed Watermark site plan, stating they are too high and could have a negative impact on the suburban/rural atmosphere of the Pheasant Ridge development.

Larry Baer, 1550 South Deer Road, expressed concerns about excessive artificial grading and how the site's grading modifications have already impacted drainage flows in the area, reducing the drainage basin for the Pheasant Ridge pond.

Jerry Neugent, Knapp Properties, 4949 Westown Parkway, stated the finished floor elevation of the four apartment buildings will be at 196 feet and the berm will be 211 feet after completing planned improvements, meaning the berm will be 15 feet higher than the finished floor elevation of the buildings. He stated Knapp Properties has voluntarily agreed to fill in the berm, and he acknowledged that will require relocation and/or replanting of trees. He also stated the PUD allows for a density of 192 units, and the proposal now before the Council is in compliance with

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that. He noted if they reduced the apartment buildings to three stories, then they would want to add more units, in the future, to the parcel southwest of South 68<sup>th</sup> Street, which would likely also be undesirable to the Pheasant Ridge residents. He requested Council approval of the proposal as requested. He then responded to questions, stating the current amount of vegetation on the berm actually exceeds what the PUD requirement. He noted the vegetation on the berm will be monitored and maintained by the owner of the parcel southwest of South 68<sup>th</sup> Street.

City Attorney Dick Scieszinski inquired about how the improvements to the berm could impact drainage in the Pheasant Ridge development.

Mr. Neugent responded water has been draining from Knapp's property, through the opening in the berm, into the Pheasant Ridge development, but when the property is developed, the berm's opening will be closed and the drainage will pass through the South 68<sup>th</sup> Street storm drain system. He speculated the primary source for the Pheasant Ridge pond is likely the drainage area to the west of Pheasant Ridge, so the improvements to the berm should not impact the pond. He responded to additional questions, stating he would be receptive to granting an easement for a fence to be put up on top of the berm.

Josh Purvis, Development Director for Watermark Residential, stated the concession to move the clubhouse to the south was significant for Watermark Residential because it would decrease the visibility of the clubhouse and potentially generate less interest in the property. He thinks that concession will help though because the four-story building is being moved to the north where the grade is lower. He stated it is not financially feasible for them to lose any units by reducing the buildings to three stories. He noted he is happy to oblige with downlighting on the Watermark property, as that is consistently done on their properties. He expressed he feels the zoning transition will be appropriate, with retail to the north, then the four-story buildings on the Watermark property south of that, then the parcel southwest of South 68<sup>th</sup> Street which is limited to two stories, with the single family residential being further south.

Mayor Gaer inquired if City staff has inspected the berm to determine its compliance with the PUD requirements.

Chris Shires, Development Planning and Inspection Manager, responded staff has not physically inspected the berm to count the trees, but if the numbers provided are correct, then the berm is in compliance. He also noted the PUD only requires the berm to be 5 feet high, so it is also in compliance with the height requirement. He stated Watermark Residential plans to cut down the grade from the higher side of the parcel, which is the southern side, and bringing that to the northern side, making the parcel more level overall.

Mayor Gaer expressed concerns that the finished grade level could be higher than what was indicated on the preliminary plat.

Mr. Purvis explained the property is long on dirt so they will have to haul some of the dirt off

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site. He also stated the overall site has to be ADA compliant, and if the grades are shifted drastically, it could pose a significant challenge in maintaining appropriate sidewalk grades and complying with ADA requirements.

Council member Trevillyan requested staff physically inspect the berm and count the number of healthy trees once the development is completed.

Mr. Shires responded staff will do that.

It was moved by Trevillyan, second by Ohmart to adopt Resolution - Approval of Overlay District Site Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant receiving City Council approval of the associated Final Plat and recording such with Dallas County prior to the issuance of building permits, including footing and foundation permits;
2. The applicant continuing to work with the City's Fire Marshal to determine sprinklering and alarm requirements for the clubhouse facility. The applicant agreeing to implement sprinklering and alarms if it is determined to be required;
3. The applicant providing the city with a copy of the NPDES Permit #2 prior to initiating site activities, including grading;
4. Prior to the issuance of building permits, including footing and foundation permits, the applicant executing the associated Parkland Dedication Agreement;
5. Prior to the issuance of building permits, including footing and foundation permits, the applicant executing a Hold Harmless Agreement releasing the city of liability and financial costs associated with the removal and replacement of either the fence or paving located within the Public Sanitary Sewer Easement in the event of maintenance, removal, reconstruction, or repair of the sewer; and,
6. The applicant addressing any remaining review comments, including revising the building architecture, to the satisfaction of the city and submitting final development plans prior to issuance of any building permits, including footing and foundation permits.

Council member Sandager stated if the Council does not approve the proposed site plan, the City could be faced with a lawsuit, and he acknowledged that Watermark Residential has made significant concessions to minimize negative impact to the Pheasant Ridge residents. He explained a key reason he supports this project is because it lies within a TIF district, which means the funds generated from the increment could be available for public infrastructure improvements in the area. That means the TIF funds could pay for planned improvements to

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South 60<sup>th</sup> Street and the City will not need to pay for it by imposing a special assessment on the properties in Pheasant Ridge. He noted the improvements to South 60<sup>th</sup> Street will likely increase the values of the properties in Pheasant Ridge. He stated he believes the current proposal is the best possible outcome for all parties involved, and that is why he supports it.

Council members Trevillyan and Ohmart echoed the comments of Council member Sandager.

Vote 13-167: Ohmart, Sandager, Trevillyan...3 yes

Trimble...1 no

Motion carried.

On Item 7(d) Village at Maple Bend, southeast corner of Oxford Drive and 89th Street - Continuance of Expired Site Plan, initiated by Caliber Homes

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval to Continue Expired Site Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The City Council allowing the southern ends of Jasper Drive and Jade Drive (private streets) to encroach into the buffer area to allow the residents of the last units to exit their driveway in a normal manner enjoyed by the other units.
2. Prior to the occupancy permit for the first building constructed, the applicant providing to the city an executed Storm Water Management Facility Maintenance Agreement.
3. Prior to the occupancy permit for the first building constructed, the applicant providing to the city a letter certifying the detention facility is in conformance with the approved SWMP and the applicant provide as-built drawings of the storm water facilities within the site;
4. Prior to site development, including grading activities, the applicant providing to the city final drawings addressing the few remaining staff comments.

Vote 13-168: Ohmart, Sandager, Trevillyan, Trimble...4 yes

Motion carried.

On Item 7(e) 2013-14 FY Hotel/Motel Tax Allocations, initiated by the City of West Des Moines

It was moved by Sandager, second by Trevillyan to adopt Motion - Approval of Subcommittee Recommendation.

Council member Ohmart inquired about the purpose for the one-time contribution of \$10,000 for the West Des Moines Business Incubator.



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Clyde Evans, Community and Economic Development Director, responded those funds will be used to furnish the new West Des Moines Business Incubator space in their relocated space.

Council member Ohmart noted the allocations to the Bennett School, the Jordan House, and the Historical Society had been handled individually in the past. He inquired if they were all being handled this year through one application by the Historical Society

Tim Stiles, Finance Director, responded all three of those entities are submitting one application for funding this year through the Historical Society. He noted the West Des Moines Business Incubator requested \$20,000, but staff is recommending an allocation of \$10,000.

Vote 13-169: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(f) Future Relocation of Human Services to former Wright Tree Service Building (139 Sixth Street) and Subsequent Utilization of 318 Fifth Street for Business Incubator, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Sandager to adopt Motion - Approval of Subcommittee Recommendation.

Council member Ohmart expressed concerns that this could result in duplication of services among the Eddie Davis Center, Polk County, and WDM Human Services.

Council member Trimble stated there will be no duplication of services at all.

Mayor Gaer stated the West Des Moines Business Incubator was informed that their lease would not be renewed, so the relocation of WDM Human Services is needed at this time, in part, to open up their current location for the business incubator.

Council member Ohmart inquired how the City will cover the cost difference.

Mr. Stiles responded \$300,000 will be covered by insurance proceeds, while the remainder will be covered by previously collected, unspent funds from the Valley Junction TIF and future incremental revenues into this fund.

Council member Ohmart inquired if this use of funds would defund another priority project.

Jody Smith, Deputy City Manager/City Clerk, responded another priority project in the TIF district is the Valley Junction Lighting Improvements, but he noted the Federal funds, if received, for that project will not be available for several years, whereas the funds for this relocation are available now. He stated he is confident the City will be able to fund all the

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priority projects in Valley Junction

Vote 13-170: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(g) 2013-14 FY Non-Union Pay Plans, initiated by the City of West Des Moines

It was moved by Sandager, second by Trimble to adopt Resolution - Approval of Pay Plans.

Council member Trevillyan stated he was not in favor of the Fox-Lawson study from the beginning, but since the implementation of the recommendations has already started, he feels the best option is to continue with the implementation.

Vote 13-171: Ohmart, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 8(a) Wells Fargo Home Mortgage, 800 South Jordan Creek Parkway - Amend the Specific Plan to Allow Construction of a Cafeteria and Training Facility - Wells Fargo Home Mortgage - Referred to Plan and Zoning Commission

On Item 8(b) WDM Water Works Audit - 2012 - Received and Filed

On Item 9 - Other Matters

Mayor Gaer inquired if the City can request an opinion from the Attorney General regarding stormwater fee districts.

City Attorney Scieszinski responded the City could if a legislator would sponsor the request.

Mayor Gaer stated he presumes Senator Charles Schneider would be willing to sponsor it, and he expressed it would be much more favorable to get an Attorney General opinion than it would be to risk facing a lawsuit.

Council member Trimble's participation in the meeting by telephone ended at 8:19 p.m.

Council members Ohmart, Sandager, and Trevillyan expressed support for the Mayor's suggestion that the City seek an Attorney General opinion.

The meeting was adjourned at 8:21 p.m.

Respectfully submitted,

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April 29, 2013

Ryan T. Jacobson  
Deputy City Clerk

ATTEST:

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Steven K. Gaer, Mayor